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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 23, 1999

APPLICATION OF

PICUS COMMUNICATIONS, LLC

CASE NO. PUC990026

For certificates of public
convenience and necessity to
provide local exchange and
interexchange telecommunications
services and for interim operating
authority

FINAL ORDER

On February 5, 1999, PICUS Communications, LLC ("PICUS" or "the Company") filed an application with the State Corporation Commission ("Commission") requesting certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. PICUS also requested authority to price its interexchange services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia ("Code") and requested interim operating authority to provide local exchange telecommunications services.¹

¹ On February 5, 1999, PICUS and Atlantic Telecom, Inc., ("Atlantic Telecom") filed an application to transfer the assets of Atlantic Telecom to PICUS. That application was docketed as Case No. PUA990005. Since the proposed transfer would not transfer Certificate No. TT-35A authorizing Atlantic Telecom to provide interexchange telecommunications services and Certificate No. T-378 authorizing Atlantic Telecom to provide local exchange telecommunications services, PICUS filed this application.

By order dated February 12, 1999, the Commission directed the Company to provide notice to the public of its application, directed the Commission Staff to conduct an investigation and file a report, and scheduled a public hearing to receive evidence relevant to PICUS' application. In that order, the Commission also granted PICUS authority, on an interim basis, to operate and provide local exchange services to customers under the tariffs of Atlantic Telecom.

On April 2, 1999, the Staff filed its report finding that PICUS' application was in compliance with the Commission's Rules for Local Exchange Telephone Competition, as adopted in Case No. PUC950018, 20 VAC 5-400-180, and the Commission's Rules Governing the Certification of Interexchange Carriers, as amended in Case No. PUC850035, 20 VAC 5-400-60. Accordingly, the Staff recommended granting a local exchange certificate and an interexchange certificate to PICUS subject to the following conditions: (1) any customer deposits collected by the Company be retained in an unaffiliated third-party escrow account until such time as the Staff or the Commission determines that it is no longer necessary; (2) the Company shall provide audited financial statements to the Staff no later than one year from the effective date of its certification; and (3) PICUS shall file new tariffs no later than June 30, 1999, and, upon

acceptance of such tariffs, the tariffs of Atlantic Telecom be canceled.

The Staff also recommended that, upon issuance of an order authorizing PICUS to provide local exchange and interexchange telecommunications services and the issuance of an order authorizing the transfer of assets of Atlantic Telecom to PICUS in Case No. PUA990005², the Commission should enter an order canceling the certificates authorizing Atlantic Telecom to provide local and interexchange telecommunications services.

A hearing was conducted on April 14, 1999. PICUS filed proof of publication and proof of service as required by the February 12, 1999, scheduling order. At the hearing, a public witness appeared and testified regarding concerns with a current PICUS promotional offering. That witness did not, however, offer any objection to the granting of the requested certificates. The application and the Staff Report were subsequently entered into the record without objection.

By letter dated April 16, 1999, counsel for PICUS requested that the Commission enter an order granting PICUS its requested certificates and canceling the certificates of Atlantic Telecom. PICUS also requested that it be allowed to operate pursuant to the tariffs of Atlantic Telecom until such time as its tariffs

² The Commission approved the transfer of assets from Atlantic Telecom to PICUS in Case No. PUA990005 by order dated April 6, 1999.

are approved and that, upon approval of such tariffs, the tariffs of Atlantic Telecom be canceled. Attached to that letter was an affidavit executed by John R. Burrows, the President of Atlantic Telecom, indicating that company's desire to relinquish its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia.

Having considered the application, the Staff's Report and the record, the Commission finds that such application should be granted subject to the conditions referenced herein. Having considered § 56-481.1 of the Code, the Commission also finds that PICUS may price its interexchange services competitively. We note the requests of PICUS and Atlantic Telecom submitted in the above referenced letter and will grant such requests with the exception of Atlantic Telecom's request to cancel its certificates. That request will be addressed in a separate proceeding (Case No. PUC990074). Accordingly,

IT IS THEREFORE ORDERED THAT:

(1) PICUS is hereby granted a certificate of public convenience and necessity, No. TT-68A, to provide interexchange services subject to restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code, and the provisions of this Order.

(2) PICUS is hereby granted a certificate of public convenience and necessity, No. T-442, to provide local exchange telecommunications services subject to the restrictions set forth in the Commission's Rules for Local Exchange Telephone Competition, § 56-265.4:4 of the Code, and the provisions of this Order.

(3) Any customer deposits collected by PICUS shall be retained in an unaffiliated third-party escrow account until such time as the Staff or the Commission determines that such account is no longer necessary.

(4) PICUS shall provide audited financial statements to the Staff no later than one year from the date of this Order.

(5) PICUS shall file new tariffs no later than June 30, 1999, and, upon acceptance of such tariffs, the tariffs of Atlantic Telecom shall be canceled.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers placed in the file for ended causes.